

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of the Subscriber Carrier)	
Selection Changes Provisions of the)	
Telecommunications Act of 1996)	
)	CC Docket No. 94-129
Policies and rules Concerning Unauthorized)	
Changes of Consumers Long Distance Carriers)	

OPPOSITION TO PETITIONS FOR RECONSIDERATION

Sprint's petition raises a question under the Commission's new slamming rules, but proposes the wrong answer. If a local exchange carrier makes a mistake executing a carrier-change order, Sprint is correct that it should not count as a slam by the carrier to which the customer is incorrectly presubscribed. However, it is also not a slam by the LEC either. Rather, when the customer points out the mistake, the LEC should correct it at no charge, as Verizon¹ does today.

WorldCom, for the most part, continues its lone fight against effective slamming rules that protect consumers and take the profit out of slamming. Its latest effort should be rejected.

Both requests to reconsider the *Reconsideration Order*² should be denied.

An Executing Carrier Error Is Not a "Slam".

Sprint's petition is limited to issues concerning how the Commission should treat executing carrier errors. It is premised on the notion that existing rules make the submitting

¹ The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc., listed in Attachment A. This response is also submitted on behalf of Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance, and NYNEX Long Distance Company d/b/a Verizon Enterprise Solutions, interexchange carriers affiliated with Verizon.

² *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, 15 FCC Rcd 8158 (2000) (*Reconsideration Order*).

carrier responsible for executing carrier errors. This is an incorrect reading of the rules and the decisions adopting them.

Sprint seems concerned that it will be held liable and penalized for mistakes made by the LEC in executing orders it submitted or even for cases in which customers were presubscribed to Sprint when Sprint did not submit any carrier-change order at all.³ The rules do not have such a bizarre effect. As long as Sprint has satisfied its obligations under the rules, it would not be liable for anything to anyone and surely not for mistakes made by somebody else. In particular, Sprint could not be liable under section 64.1140 because that provision applies only to a “submitting telecommunications carrier” and it would not be a “submitting carrier” as defined in section 64.1100(a).⁴

Nor has the executing carrier “slammed” anyone. The rules clearly state what constitutes an executing carrier’s compliance with the rules — “For an executing carrier, compliance with the procedures described in this part shall be defined as prompt execution, without any unreasonable delay, of changes that have been verified by a submitting carrier.”⁵ Prompt implementation of a change order received from a carrier is full compliance, and failure to meet this standard is non-compliance for which the executing carrier may be held responsible. However, such non-compliance by an executing carrier would not invoke the special liability rules contained in section 64.1140, as they expressly apply only to a “submitting telecommunications carrier that fails to comply with the procedures prescribed in this part,” not to an executing carrier.

³ Sprint at 2-4

⁴ “The term *submitting carrier* is generally any telecommunications carrier that requests on the behalf of a subscriber that the subscriber’s telecommunications carrier be changed, and seeks to provide retail services to the end user subscriber.”

⁵ 47 C.F.R. § 64.1120(a)(2).

This distinction between the remedies for submitting carrier and executing carrier non-compliance is compelled by section 258(b) of the Act, which authorizes these special liability rules only as to a carrier that both “violates the verification procedures” and “collects charges . . . from a subscriber.” The executing carrier, of course, has no obligation to verify order submitted by other carriers (indeed, the Commission’s rules explicitly prohibit it from doing so⁶) and it collects no charges from the subscriber for the services involved. The new rules adopted under that statute, therefore, cannot apply to the executing carrier.

One situation not expressly addressed in the rules is an executing carrier mistake in executing a carrier-change order it receives directly from the subscriber (rather than from a submitting carrier). Sprint seems to be concerned that it will be held liable if, for example, a subscriber calls Verizon and asks to be changed from AT&T to WorldCom and Verizon mistakenly switches the subscriber to Sprint. In that case, Sprint is correct that it would have done nothing wrong and would not have violated any obligation imposed by the rules. It would also not be liable under the rules because section 64.1140(a) imposes liability only on a “submitting telecommunications carrier that fails to comply with the procedures prescribed in this part.”

The Commission should make it clear, however, what an executing carrier is to do — and not do — when it makes a mistake of this sort. When a subscriber calls Verizon to complain that she has been switched to the wrong carrier, Verizon can immediately tell if it made an error executing her request. If Verizon made the mistake, Verizon immediately offers to switch the

⁶ “An executing carrier shall not verify the submission of a change in a subscriber’s selection of a provider of telecommunications service received from a submitting carrier.” 47 C.F.R. § 64.1120(a)(2).

subscriber to her desired carrier at no charge. Verizon can also refund the money, either by crediting her bill (if Verizon bills for the carrier)⁷ or sending her a check (if it does not). This is not a “slam,” because no Commission rule has been violated, and for that reason need not be reported. The new carrier would never be called upon to substantiate its change order because it never submitted one. The special liability regulation does not by its own terms apply to this situation (because it only applies to a “submitting telecommunications carrier that fails to comply with the procedures prescribed in this part”), and it could not apply because it is not authorized by section 258(b).

WorldCom’s Proposals Would Gut the Rules.

Most of WorldCom’s petition is simply a continuation of its fight against the Commission’s efforts to strengthen the anti-slamming rules and make matters as simple as possible for the subscriber who has been slammed.

In its petition, WorldCom asks the Commission to require that subscribers who call the executing carrier to complain of a slam be told to call the carrier that has slammed them and apparently to prohibit the executing carrier from doing anything at all to help the subscriber.⁸ The Commission should not adopt such a requirement.⁹ The last person that many slammed

⁷ Verizon would not recourse this amount to the carrier.

⁸ WorldCom at 2.

⁹ Verizon does suggest that subscribers who believe they have been slammed should contact the alleged slammer, but it does so after it tries to help the subscriber.

consumers want to deal with is the slammer, a company with which these subscribers have no relationship at all.¹⁰ And the Commission should not constrain the exchange carrier's ability to try to fix things for the subscriber — by changing the subscriber back to the carrier he wants and by taking charges off the subscriber's bill.¹¹

WorldCom tries to put a pro-consumer face on its request by describing all the things that the alleged slammer can do for the consumer — claiming that “the unauthorized carrier is best positioned to ‘make it right’ with the customer.”¹² In fact, the alleged slammer is the one entity that cannot provide the remedy that the slammed consumer will definitely want — to be returned to his previous carrier.¹³ Moreover, WorldCom is simply wrong when it claims that the executing LEC cannot provide the subscriber a full 30-day credit because the LEC might not know about a full 30 days worth of charges¹⁴ — the LEC takes 30 days of charges off the bill, even if it takes an additional billing cycle for the credits to appear on the customer's bill.

WorldCom also attacks the Commission's immediate credit rule and wants charges to remain on subscribers' bill even after they have complained of being slammed.¹⁵ Verizon believes

¹⁰ WorldCom recognizes this fact, as it notes that “[m]any consumers suspecting a slam will contact the carrier they believe to be their authorized carrier or their LEC.” WorldCom at 5.

¹¹ WorldCom claims that while the rules require an executing carrier to notify the alleged slammer of a complaint, “there is no specified deadline for this notification.” WorldCom at 5. The very rule WorldCom cites, however, requires that this notification be made “immediately.” 47 C.F.R. § 64.1150(a).

¹² WorldCom at 7.

¹³ Both the executing carrier and the authorized carrier can do this.

¹⁴ WorldCom at 6-7.

¹⁵ WorldCom at 14-16.

that the Commission's analysis of why this requirement is best for consumers¹⁶ is correct and that it should not be changed. But the Commission should understand that WorldCom's real motivation here is to put some of the money back into slamming. The typical case is where the subscriber calls the LEC, and the LEC immediately credits the subscriber and recourses the billed amount to the carrier. WorldCom wants the LEC to sustain the charges and only to recourse them to the carrier after the slam has been proven — and, thereby, to finance the slammer's business. The Commission should see this request for what it is and reject it.

Conclusion

The Commission should deny these petitions to reconsider and change its regulations.

Respectfully submitted,

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¹⁶ *Reconsideration Order ¶¶ 9-11.*

THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc.. These are:

Contel of Minnesota, Inc. d/b/a Verizon Minnesota
Contel of the South, Inc. d/b/a Verizon Mid-States
GTE Alaska Incorporated d/b/a Verizon Alaska
GTE Arkansas Incorporated d/b/a Verizon Arkansas
GTE Midwest Incorporated d/b/a Verizon Midwest
GTE Southwest Incorporated d/b/a Verizon Southwest
The Micronesian Telecommunications Corporation
Verizon California Inc.
Verizon Delaware Inc.
Verizon Florida Inc.
Verizon Hawaii Inc.
Verizon Maryland Inc.
Verizon New England Inc.
Verizon New Jersey Inc.
Verizon New York Inc.
Verizon North Inc.
Verizon Northwest Inc.
Verizon Pennsylvania Inc.
Verizon South Inc.
Verizon Virginia Inc.
Verizon Washington, DC Inc.
Verizon West Coast Inc.
Verizon West Virginia Inc.